

# AUSLEY & McMULLEN

ATTORNEYS AND COUNSELORS AT LAW

123 SOUTH CALHOUN STREET  
P.O. BOX 391 (ZIP 32302)  
TALLAHASSEE, FLORIDA 32301  
(850) 224-9115 FAX (850) 222-7560

April 24, 2012

HAND DELIVERED

RECEIVED-FPSC  
APR 24 PM 1:51  
COMMISSION  
CLERK

Ms. Ann Cole, Director  
Division of Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: Fuel and Purchased Power Cost Recovery Clause with Generating  
Performance Incentive Factor; FPSC Docket No. 120001-EI

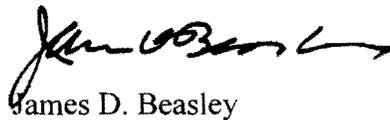
Dear Ms. Cole:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Tampa Electric Company's Objection to the Florida Industrial Power Users Group's First Request to Produce Documents (Nos. 1-5) to Tampa Electric.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning same to this writer.

Thank you for your assistance in connection with this matter.

Sincerely,



James D. Beasley

JDB/pp  
Enclosure

cc: All parties of record (w/enc.)

COM	_____
APA	1
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CLK	_____

DOCUMENT NUMBER DATE

02566 APR 24 2012

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased )  
Power Cost Recovery Clause )  
and Generating Performance )  
Incentive Factor. )  
\_\_\_\_\_ )

DOCKET NO. 120001-EI

FILED: April 24, 2012

**TAMPA ELECTRIC COMPANY'S OBJECTION TO THE  
FLORIDA INDUSTRIAL POWER USERS GROUP'S FIRST REQUEST  
TO PRODUCE DOCUMENTS (NOS. 1-5) TO TAMPA ELECTRIC**

Pursuant to Rule 28-106.206, Florida Administrative Code, and Rule 1.350, Florida Rules of Civil Procedure, Tampa Electric Company objects to Production of Document Request No. 3 contained in the First Request for Production of Documents (Nos. 1-5) served on Tampa Electric on April 5, 2012 by the Florida Industrial Power Users Group (FIPUG). As grounds therefor, the company says:

1. FIPUG's Document Request No. 3 ("POD No. 3") requests production of the following:

3. Please provide a schedule identifying the block of energy resources that set the hourly avoided energy costs for the period January 2009 through December 2011 in electronic native (EXCEL or compatible) format and the corresponding incremental costs of each resource.

2. Tampa Electric does not possess a schedule of the type described in the POD No.

3. To the extent that POD No. 3 calls for the creation of such a document, Tampa Electric objects to such request on the ground that it is beyond the scope of discovery under Rule 1.350, Florida Rules of Civil Procedure. A POD cannot require the creation of documents – only the production of documents already possessed or controlled by the party to whom the request is made. *Allstate Insurance Company v. Pinder*, 746 So.2d 1255 (Fla. 5<sup>th</sup> DCA 1999).

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FPSC-COMMISSION CLERK

3. Even if FIPUG could request the creation of such a schedule, the request would be objectionable on the ground that it would impose an unduly burdensome, oppressive and likely unachievable task on Tampa Electric. Literal compliance with such a request would necessitate countless hours on the part of Tampa Electric employees to perform a painstakingly manual comparison of loads and available generating capacity in each hour over a three year period to develop the information that would need to be reflected in such a schedule. Tampa Electric does not have available the human resources that would have to be dedicated to such a task.

WHEREFORE, Tampa Electric Company submits the foregoing objection to POD No. 3 set forth in FIPUG's First Request to Produce Documents (Nos. 1-5) to Tampa Electric.

DATED this 24<sup>th</sup> day of April 2012.

Respectfully submitted,



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JAMES D. BEASLEY  
J. JEFFRY WAHLEN  
Ausley & McMullen  
Post Office Box 391  
Tallahassee, Florida 32302  
(850) 224-9115

ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Objection to FIPUG's Document Request No. 3, filed on behalf of Tampa Electric Company, has been furnished by U. S. Mail or hand delivery (\*) on this 24<sup>th</sup> day of April 2012 to the following:

Ms. Martha Barrara\*  
Ms. Lisa Bennett  
Senior Attorney  
Office of General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Mr. John T. Burnett  
Associate General Counsel  
Progress Energy Service Co., LLC  
Post Office Box 14042  
St. Petersburg, FL 33733-4042

Mr. Paul Lewis, Jr.  
Progress Energy Service Co., LLC  
106 East College Avenue  
Suite 800  
Tallahassee, FL 32301-7740

Ms. Vicki Kaufman  
Mr. Jon C Moyle  
Keefe, Anchors, Gordon & Moyle, PA  
118 N. Gadsden Street  
Tallahassee, FL 32301

Ms. Patricia A. Christensen  
Associate Public Counsel  
Office of Public Counsel  
111 West Madison Street – Room 812  
Tallahassee, FL 32399-1400

Ms. Beth Keating  
Gunster, Yoakley & Stewart, P.A.  
215 S. Monroe St., Suite 618  
Tallahassee, FL 32301

Samuel Miller, Capt, USAF  
USAF/AFLOA/JAC/ULFSC  
139 Barnes Drive, Suite 1  
Tyndall AFB, FL 32403-5319

Mr. Tom Geoffroy  
Florida Public Utilities Company  
P. O. Box 3395  
West Palm Beach, FL 33402-3395

Mr. John T. Butler  
Managing Attorney - Regulatory  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408-0420

Mr. Kenneth Hoffman  
Florida Power & Light Company  
215 South Monroe Street, Suite 810  
Tallahassee, FL 32301-1859

Ms. Susan Ritenour  
Secretary and Treasurer  
Gulf Power Company  
One Energy Place  
Pensacola, FL 32520-0780

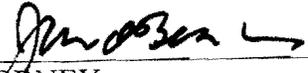
Mr. Jeffrey A. Stone  
Mr. Russell A. Badders  
Mr. Steven R. Griffin  
Beggs & Lane  
Post Office Box 12950  
Pensacola, FL 32591-2950

Mr. Robert Scheffel Wright  
Mr. John T. LaVia, III  
Gardner, Bist, Wiener, Wadsworth,  
Bowden, Bush, Dee, LaVia & Wright, P.A.  
1300 Thomaswood Drive  
Tallahassee, FL 32308

Mr. Randy B. Miller  
White Springs Agricultural Chemicals, Inc.  
Post Office Box 300  
White Springs, FL 32096

Ms. Cecilia Bradley  
Senior Assistant Attorney General  
Office of the Attorney General  
The Capitol – PL01  
Tallahassee, FL 32399-1050

Mr. James W. Brew  
Mr. F. Alvin Taylor  
Brickfield, Burchette, Ritts & Stone, P.C.  
1025 Thomas Jefferson Street, NW  
Eighth Floor, West Tower  
Washington, D.C. 20007-5201

  
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ATTORNEY